

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

R09-OAR-2005-CA-0010

Approval and Promulgation of Implementation Plans and Designation  
of Areas for Air Quality Planning Purposes;  
California; Carbon Monoxide Maintenance Plan Update for Ten  
Planning Areas; Motor Vehicle Emissions Budgets; Technical  
Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to approve a State Implementation Plan revision, submitted by the California Air Resources Board on November 8, 2004, that includes the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas*. This revision will provide a ten-year update to the carbon monoxide maintenance plan, as well as replace existing and establish new carbon monoxide motor vehicle emissions budgets for the purposes of determining transportation conformity, for the following ten areas: Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area. EPA is taking this action pursuant to those provisions of the Clean Air Act that

obligate the agency to take action on submittals of revisions to state implementation plans. The intended effect of this action is to fulfill the requirement under the Clean Air Act for a State to submit a subsequent maintenance plan that provides for continued maintenance of a National Ambient Air Quality Standard within former nonattainment areas within eight years of redesignation of those areas to attainment. In connection with the motor vehicle emissions budgets, we are denying a request by the California Air Resources Board for EPA to limit the duration of our approval of the budgets.

Also, in this notice, EPA is notifying the public that we have found that the carbon monoxide motor vehicle emissions budgets contained in the submitted maintenance plan are adequate for conformity purposes. As a result of this finding, the various metropolitan planning organizations in the ten planning areas and the U.S. Department of Transportation must use the CO motor vehicle emissions budgets from the submitted maintenance plan for future conformity determinations.

Lastly, EPA is correcting certain errors made in our 1998 final rule approving California's redesignation request for these ten planning areas.

**DATES:** This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30

days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the Federal Register to notify the public that this direct final rule will not take effect. However, EPA's determination of motor vehicle emissions budget adequacy is effective on [Insert date 60 days from the date of publication in the Federal Register] regardless of whether we withdraw this direct final rule, unless otherwise noted in the withdrawal notice.

**ADDRESSES:** Submit comments, identified by docket number R09-OAR-2005-CA-0010, by one of the following methods:

1. Agency Website: <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
2. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.
3. E-mail: [tiktinsky.toby@epa.gov](mailto:tiktinsky.toby@epa.gov).
4. Mail or deliver: Toby Tiktinsky (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency website, eRulemaking portal or e-mail. The agency website and eRulemaking portal are "anonymous access" systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Toby Tiktinsky, EPA Region IX, (415) 947-4223, [tiktinsky.toby@epa.gov](mailto:tiktinsky.toby@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "we," "us," and "our" refer to U.S. EPA.

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#### **I. Background**

- A. What Action Is EPA Taking?

Under section 110(k)(3) of the Clean Air Act (CAA or "Act"), we are approving a State Implementation Plan (SIP) revision submitted by the California Air Resources Board (ARB) on November 8, 2004. This SIP revision consists of the 2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas ("2004 CO Maintenance Plan"), ARB Board Resolution 04-20 adopting the 2004 CO Maintenance Plan, and related public process documentation. The 2004 CO Maintenance Plan will provide a ten-year update to the carbon monoxide (CO) maintenance plan, as well as replace existing and establish new motor vehicle emissions budgets (MVEBs), for the following ten areas, referred to herein collectively as the "ten planning areas": Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area. ARB's November 8, 2004 SIP submittal was deemed complete by operation of law six months after receipt under section 110(k)(1)(B).

In connection with the MVEBs, we are denying a request by the California Air Resources Board for EPA to limit the duration of our approval of the budgets. Also, in this notice, EPA is notifying the public that we have found that the MVEBs contained

in the submitted maintenance plan are adequate for transportation conformity purposes.

Lastly, we are also correcting, pursuant to section 110(k)(6) of the Act, certain errors that we made in our 1998 final rule approving California's redesignation request for these ten planning areas.

#### B. Why Is California Submitting This SIP Revision?

All ten planning areas that are the subject of this rulemaking were originally designated as nonattainment areas for the CO National Ambient Air Quality Standards (NAAQS) in 1978. See 43 FR 8962 (March 3, 1978). Because all of the ten planning areas remained "nonattainment" for the CO NAAQS at the time of enactment of the Clean Air Act Amendments of 1990, their nonattainment designations were carried forward by operation of law under section 107(d)(1)(C) of the Act, as amended in 1990. Based on their design values in 1990, eight of the ten areas were further classified as "moderate" nonattainment. The air quality in two of the areas (Lake Tahoe North Shore Area and Bakersfield Metropolitan Area), however, was near the standard, but not below it. Thus, these two areas were not further classified, but retained their "nonattainment" designations. [See 56 FR 56694, at 56723-56726 (November 6, 1991)]

Once an area achieves the NAAQS, and the area demonstrates in a maintenance plan that it can continue to meet the air

quality standards, the State can request that EPA redesignate the area to attainment. Before an area can be redesignated to attainment, EPA must ensure the maintenance plan meets the criteria established in section 175A of the CAA. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment.

In 1996, California submitted the *Final Carbon Monoxide Redesignation Request and Maintenance Plan for Ten Federal Planning Areas* ("1996 CO Maintenance Plan"). The 1996 CO Maintenance Plan demonstrated continued maintenance of the CO NAAQS in the ten planning areas through 2010. On March 31, 1998, EPA approved the 1996 CO Maintenance Plan as a revision to the California SIP and redesignated the ten areas to attainment effective June 1, 1998 (63 FR 15305).

One of the control measures that the 1996 CO Maintenance Plan relies upon is the State's wintertime oxygenated gasoline requirement. Due to concerns over the effects of the predominant oxygenate used to comply with the wintertime gasoline requirements, methyl tertiary butyl ether (MTBE), on water quality, the ARB rescinded the wintertime oxygenated gasoline requirement as it relates to the ten planning areas covered by the 1996 CO Maintenance Plan. In November 1998, ARB amended the 1996 CO Maintenance Plan to remove the CO emissions reductions



benefits associated with the wintertime oxygenated gasoline requirement, and submitted the revised maintenance plan, *Revision to 1996 Carbon Monoxide Maintenance Plan for 10 Federal Planning Areas* ("1998 CO Maintenance Plan"), as a SIP revision to EPA in December 1998. In the 1998 CO Maintenance Plan, ARB estimates that repeal of the wintertime oxygenated gasoline requirement results in an increase in CO emissions in the ten planning areas of approximately 9% but concludes that the CO NAAQS would still be maintained through 2010. We have taken no action on the 1998 CO Maintenance Plan SIP revision and consider the more recent submittal, i.e., the 2004 CO Maintenance Plan SIP submittal, to supersede this earlier submittal.

Section 175A(b) of the Act requires the State to submit, eight years after redesignation of any area to attainment, an additional revision of the SIP that provides for maintenance of the applicable NAAQS for the 10-year period following the initial maintenance period. ARB's current submission updates the maintenance plan to cover the remainder of the twenty year maintenance period (1998 to 2018) required by the CAA and is intended to satisfy the section 175A(b) requirement for a subsequent maintenance plan.

#### C. What Process Did California Use To Develop This Plan?

ARB held a public hearing on the 2004 CO Maintenance Plan on July 22, 2004 and adopted the plan on the same day. Thirty days

prior to that date, ARB arranged for publication of notices of the July 22, 2004 public hearing in major newspapers that circulate in each of the ten planning areas. By letter dated November 8, 2004, ARB submitted the 2004 CO Maintenance Plan for approval by EPA as a revision to the California SIP. As enclosures to the November 8, 2004 letter, ARB provided evidence of adoption (ARB resolution 04-20), the necessary legal authority under State law to adopt and implement the plan, copies of public hearing notices in which ARB was to address the contents of the plan revision, and minutes from the July 22, 2004 public hearing produced by a certified court reporting service. ARB is the Governor's designee for submitting SIP revisions.

#### D. Ambient Carbon Monoxide Concentrations

The 2004 CO Maintenance Plan provides a summary of ambient CO concentration data collected within the ten planning areas since the areas attained the CO NAAQS. The data, which is summarized in table 1 below, indicate that the CO NAAQS has been maintained in the ten planning areas since the mid-1990s, that design values are currently well below the CO NAAQS, and that, with one exception, there is a continuing downward trend in the CO design values in these areas.

**Table 1—Design Values for the 8-Hour CO NAAQS in California  
(parts per million or ppm)**

<u>CO Maintenance Area</u>	<u>Attainment Period</u>	<u>1995</u>	<u>2000</u>	<u>2003</u>
Bakersfield	1992-1994	6.1	5.2	2.5
Chico	1993-1995	5.4	4.0	3.4
Fresno	1993-1995	9.1	7.6	4.3
Lake Tahoe North Shore	1993-1994	3.8	0.9	N/A
Lake Tahoe South Shore	1993-1994	7.4	4.3	6.5
Modesto	1993-1994	6.6	6.3	3.7
Sacramento	1993-1995	9.1	6.2	4.2
San Diego	1993-1994	7.0	4.9	4.1
San Francisco-Oakland-San Jose	1993-1994	7.2	6.9	4.9
Stockton	1993-1994	7.5	6.3	3.2

Source: ARB, 2004 CO Maintenance Plan, page 5.

Note: The 8-hour CO design value is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at each monitoring site for each year of a given two-year period. Then the higher of the two "second high" values is used as the design value for a given monitoring site, and the highest design value among the various CO monitoring sites represents the CO design value for the given area.

N/A = Not Available.

#### E. What Are Motor Vehicle Emissions Budgets (MVEBs)?

In developing plans for improving or maintaining air quality under the CAA, regions must estimate the total emissions from motor vehicles. These estimates act as a budget or ceiling for emissions from motor vehicles. EPA evaluates these budgets to ensure that current and future motor vehicle emissions will not prevent a region from attaining or maintaining the NAAQS. Metropolitan Planning Organizations (MPOs) must ensure that transportation plans and programs do not lead to increases in motor vehicle emissions that would exceed the established budgets and, consequently, hinder a region from attaining or maintaining the NAAQS.

## **II. How Are We Evaluating This Submittal?**

We are evaluating this SIP revision submittal under sections 110 and 175A of the Act.

Section 110(k) of the Act requires EPA to approve, disapprove, or conditionally approve all SIP submittals found or deemed to be complete. As noted above, ARB's SIP submittal containing the 2004 CO Maintenance Plan was deemed complete by operation of law.

Section 110(l) of the Act requires that each SIP revision submitted by a State be adopted by such State after reasonable notice and public hearing. As noted above, ARB adopted the 2004 CO Maintenance Plan on July 22, 2004 after having provided for reasonable notice and a public hearing. We find the public process ARB used to develop and adopt this SIP revision to be acceptable under section 110(l) of the Act.

Section 110(l) also states that EPA shall not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. We evaluate the potential for this SIP revision to interfere with continued maintenance in Section III.B ("Maintenance Demonstration") of this notice in the context of approving the wintertime oxygenated gasoline requirement as a contingency measure.

Section 175A(b) of the Act requires the State to submit, eight years after redesignation of any area to attainment, an additional revision of the SIP that provides for maintenance of the applicable NAAQS for the 10-year period following the initial maintenance period. Section 175A(d) requires that plan revisions submitted under section 175A contain such contingency provisions as EPA deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such contingency provisions must include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the SIP for the area before redesignation of the area as an attainment area.

Maintenance plans submitted under section 175A of the Act should include the following core provisions: an attainment inventory, a maintenance demonstration, commitment to continue operating an appropriate monitoring network, commitment to verify continued attainment, and a contingency plan. See EPA Policy Memorandum, "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, Office of Air Quality Planning and Standards, to Regional Air Division Directors, September 4, 1992 ("Calcagni memo"). Our evaluation of the 2004 CO Maintenance Plan is provided in the following section of this notice.

### **III. EPA's Evaluation of 2004 CO Maintenance Plan**

#### **A. Attainment Inventory**

For maintenance plans, a State should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A State should develop these inventories consistent with EPA's most recent guidance on emissions inventory development.

The 1996 CO Maintenance Plan included attainment inventories for each of the ten planning areas. As part of the 2004 CO Maintenance Plan, ARB updated the emissions inventories for year 1993, which was the common attainment year for all ten planning areas in the 1996 CO Maintenance Plan, to reflect better calculation methods and emissions factors. ARB also developed a CO emissions inventory for a more recent attainment year, 2003. Table 2 presents a summary of the 2004 CO Maintenance Plan's emissions estimates for these two attainment years (1993 and 2003) as well as the plan's updated projections of emissions for 2010 (the horizon or out-year of the 1996 CO Maintenance Plan) and a projection of emissions for 2018 (the out-year of the 2004 CO Maintenance Plan). Table 2 shows wintertime seasonal CO emissions decreasing steadily over the next thirteen years. ARB attributes the continuing decline in emissions, despite growth in population and vehicle miles traveled (VMT), to the benefits of

increasingly tighter emissions standards for new engines, fuel requirements, and turnover of the vehicle fleet to lower-emitting models.

**Table 2—Total CO Emissions in Each Maintenance Area  
(Winter Seasonal Emissions in Tons per Day)**

CO Maintenance Area	1993	2003	2010	2018
Bakersfield	478	298	234	191
Chico	232	164	134	113
Fresno	627	400	302	244
Lake Tahoe North Shore Area	25	19	16	14
Lake Tahoe South Shore Area	61	49	45	43
Modesto	331	206	151	120
Sacramento	1,125	658	487	388
San Diego	1,889	1,101	829	643
San Francisco-Oakland-San Jose	4,254	2,645	1,716	1,322
Stockton	433	258	188	153

Source: ARB, 2004 CO Maintenance Plan, page 8.

Appendix B of the 2004 CO Maintenance Plan shows emission inventories by major source category. ARB prepared the motor-vehicle portion of the emissions inventories by using the current version of California's motor vehicle emission factor model EMFAC2002, version 2.2. EPA approved the use of EMFAC2002 to estimate motor vehicle emissions on April 1, 2003 (see 68 FR 15720). The emissions estimates in table 2 above for inventory

years 2003, 2010, and 2018 do not include the emissions benefit from the (now rescinded) wintertime oxygenated gasoline requirement but do include the emissions benefit from the measures that ARB adopted as contingency measures in the 1996 CO Maintenance Plan. These measures, which are listed on page 12 of the 2004 CO Maintenance Plan, include improvements to the vehicle inspection and maintenance (I/M) program, on-board diagnostics systems testing for newer vehicles, California cleaner burning gasoline, off-highway recreational vehicle standards, tighter lawn and garden equipment standards, and tighter low-emission vehicle and clean fuel regulations.

EPA has reviewed the emissions inventories included in the 2004 CO Maintenance Plan and the related emissions inventory preparation documentation and concludes that the inventories are comprehensive and reflect acceptable methods and emissions factors and that the inventories present reasonably accurate estimates of actual and projected CO emissions in the ten planning areas.

#### B. Maintenance Demonstration

Generally, a State may demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emissions rates will not cause a violation of the NAAQS. For



areas that are required under the Act to submit modeled attainment demonstrations, the maintenance demonstration should use the same type of modeling. In areas where modeling is not required, the State may rely on the attainment inventory approach. For subsequent maintenance plans, to comply with section 175A(b) of the Act, the State's maintenance demonstration must extend 10 years after the expiration of the 10-year maintenance period covered by the initial maintenance plan.

In the 1996 CO Maintenance Plan, ARB provided maintenance demonstrations (through 2010) for nine of the 10 areas based on the attainment inventory approach and provided a maintenance demonstration (through 2010) based on modeling (rollback method) for the one area (Fresno) for which modeling had been required for attainment demonstration purposes under the Act.

In the 2004 CO Maintenance Plan, ARB updated the emissions inventories for all ten areas (see table 2, above). For the nine areas for which maintenance demonstrations are based on the inventory approach, the updated estimates of total CO emissions in each area show a continuing downward trend through 2018 (i.e., 20 years after redesignation) and thus demonstrate maintenance of the CO NAAQS through the required period. ARB also updated the maintenance demonstration for the Fresno area, once again relying on the rollback method to show that the CO NAAQS would be maintained in that area through 2018. Table 3 summarizes the

updated rollback analysis for Fresno and shows that the design values for Fresno are anticipated to continue to fall well below those achieved in the 1993-1995 attainment period.

We find the maintenance demonstrations for the ten planning areas in the 2004 CO Maintenance Plan to be acceptable for the purposes of CAA section 175A(b). Further, we find that, based on the maintenance demonstrations contained in the 2004 CO Maintenance Plan, the revision in the status of one of the principal control measures relied upon in the 1996 CO Maintenance Plan, the wintertime oxygenated gasoline requirement, from "active" status to "contingent" status is approvable under section 110(l) because it will not interfere with continued maintenance of the CO NAAQS in the ten planning areas.

**Table 3—CO Rollback Analysis for Fresno Area  
(Winter Seasonal Emissions)**

<b>Fresno Urbanized Area</b>	<b>1993</b>	<b>2003</b>	<b>2010</b>	<b>2018</b>
All Sources of CO in the Emission Inventory (Tons per Day)	627	400	302	244
Projected Design Value for All Sources in the Inventory (in ppm)	9.1	5.8	4.4	3.5
On-Road Motor Vehicle Portion of the CO Emission Inventory (Tons per Day)	450	236	141	77
Projected Design Value for On-Road Motor Vehicle Portion of the Inventory (in ppm)	9.1	4.8	2.9	1.6
Vehicle Miles Traveled (in thousands)	15,987	20,624	24,895	29,487

Source: ARB, 2004 CO Maintenance Plan, page 11.

#### C. Monitoring Network and Verification of Continued Attainment

Once an area has been redesignated, the State should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. The maintenance plan should also indicate how the State will track the progress of the maintenance plan, such as by periodically updating the emissions inventory.

In the 1996 CO Maintenance Plan, ARB indicates that it intends to continue to comply with the monitoring criteria set forth in 40 CFR part 58, and that it will annually review data from the two most recent, consecutive years in order to verify continued attainment of the CO NAAQS. In the 2004 CO Maintenance Plan, ARB reiterates its intent to continue to collect air quality data and to review data on an annual basis from the two most recent consecutive years to verify continued attainment of the CO NAAQS.

Based on the compilation of information in appendix A of the 2004 CO Maintenance Plan, we note that, in the aggregate, ten CO monitoring sites in the ten planning areas have closed since redesignation of these areas to attainment for the CO NAAQS, but 33 sites remain open with at least one CO monitoring site continuing to operate in each planning area, except for the Lake

Tahoe North Shore Area. The reduction in the number of CO monitoring sites is acceptable in light of the sharp decline in maximum CO concentrations in each of the ten planning areas and the need to shift resources to address other air quality priorities. We also believe that the lack of a CO monitoring site in the Lake Tahoe North Shore Area is acceptable given the very low CO concentrations measured there. In addition, audits of a number of the ambient monitoring networks in the ten planning areas since redesignation have found no significant problems with any of the networks.

Under EPA's Consolidated Emissions Reporting Rule, published in the Federal Register on June 10, 2002 (see 67 FR 39602), states are required to prepare comprehensive statewide inventories every three years. In addition, under State law (California Health and Safety Code Section 39607.3), ARB is required to update emissions inventories for all areas of California for CO as well as the other criteria pollutants on an on-going basis. Although not cited in the 2004 Maintenance Plan, the Federal and State inventory update requirements suffice to track progress of the 2004 CO Maintenance Plan.

We find ARB's stated intention to continue to collect air quality data and to verify continued attainment of the CO NAAQS to be acceptable for the purposes of CAA section 175A(b) based on our conclusion that ARB has consistently operated its monitoring

networks in compliance with 40 CFR part 58 and continues to operate an appropriate number of CO monitoring sites in the planning areas covered by the 2004 CO Maintenance Plan.

#### D. Contingency Provisions

CAA section 175A(d) requires that "Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation of the area as an attainment area." The following sections discuss the contingency provisions included in the 2004 CO Maintenance Plan.

The EPA-approved 1996 CO Maintenance Plan included seven contingency measures: improved basic I/M program requirements (Chico, Lake Tahoe North Shore, Lake Tahoe South Shore, and San Francisco-Oakland-San Jose Areas); enhanced I/M program requirements (Bakersfield, Fresno, Modesto, and Sacramento Areas); on-board diagnostics systems testing requirements in I/M programs (Statewide); California Cleaner-Burning Gasoline regulations (Statewide); Off-Highway Recreational Vehicles standards (Statewide); lawn and garden equipment - tier II

requirements (Statewide); and low-emission vehicles and clean fuels (post-1995) standards (Statewide). At the time of ARB's adoption of the 1996 CO Maintenance Plan, these measures had already been adopted and were anticipated to be implemented during the 1996 through 2001 period regardless of any triggering event associated with high CO concentrations. The CO emissions reductions associated with these seven contingency measures were not included in the maintenance demonstrations for the ten planning areas and thus were surplus to the CO emissions reductions assumed in the 1996 CO Maintenance Plan.

CAA section 211(m) establishes particular requirements for adopting provisions requiring the use of oxygenated fuels in areas designated nonattainment for the CO NAAQS and registering design values above 9.5 ppm.

Pursuant to this section of the CAA, ARB submitted its motor vehicle fuels regulations, including its requirements for wintertime oxygen content, to EPA for approval on November 15, 1994. Eight areas in California were required to provide for the sale of oxygenated gasoline during winter months under section 211(m): Chico, Fresno, Modesto, Sacramento, San Diego and Sacramento MSAs, and the Los Angeles-Anaheim-Riverside and San Francisco-Oakland-San Jose CSMAs. Because of the number of carbon monoxide nonattainment areas, however, ARB required the use of wintertime oxygenates for the entire state. EPA approved

the State's wintertime oxygenated gasoline regulations on August 21, 1995 (60 FR 43379).

California succeeded in reducing significantly CO emissions, prompting ARB to request that EPA redesignate the ten planning areas to attainment and to submit a maintenance plan (adopted by ARB April 25, 1996) and referred to herein as the 1996 CO Maintenance Plan that demonstrates how the State will continue to meet NAAQS for CO. The 1996 CO Maintenance Plan (which EPA approved March 31, 1998 [63 FR 15305]) identified the wintertime oxygenated gasoline requirement as one of the principal control measures and relied on the associated emissions reductions to demonstrate continued attainment.

On November 19, 1998, ARB approved an amendment to California's CO maintenance plan rescinding in most areas the wintertime oxygenated gasoline requirement (see ARB Resolution 98-52, November 19, 1998 included as Appendix C of the 2004 CO Maintenance Plan). Because the State had achieved significant reductions in CO emissions from other control measures, the wintertime oxygenated gasoline requirement was no longer necessary to maintain the CO NAAQS in the ten planning areas. The growing concern about the risks of the widely used oxygenate MTBE (methyl tertiary butyl ether) also influenced ARB's decision to rescind the wintertime oxygenated gasoline requirement. Because it is highly soluble in water and transfers to

groundwater faster, farther and more easily than other gasoline constituents, ARB concluded that MTBE poses a significant threat to groundwater, surface water, and drinking water systems. The following year (March 26, 1999), Governor Gray Davis signed Executive Order D-5-99 ordering the phase-out of MTBE. The Executive Order also directed ARB to develop new gasoline requirements that eliminated the use of MTBE, which ARB adopted in December 1999 (known as Phase 3 Reformulated Gasoline Regulations). In July 2002, ARB amended the Phase 3 gasoline regulations to postpone the prohibition of the use of MTBE for one year, as directed by a second Executive Order issued by the Governor in March 2002. The final deadline for eliminating MTBE from gasoline in California was December 31, 2003.

Because certain areas of the State needed to rely on the benefits of oxygenated fuels to ensure attainment and maintenance of the CO NAAQS, ARB retained the wintertime oxygenated gasoline requirement in the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura and Imperial, but not in the ten planning areas.

Additionally, in adopting the 1998 CO Maintenance Plan, which revised the 1996 CO Maintenance Plan, ARB committed to the following: "...the Board directs ARB staff to review carbon monoxide air quality data in the areas no longer subject to the wintertime oxygen requirement; if violations are monitored in any



of the areas, staff will propose that appropriate action be taken regarding reinstatement of the minimum wintertime oxygen content in gasoline previously contained in section 2262.5, title 13, CCR, in the area at the beginning of the following winter season ... " (ARB Resolution 98-52, November 19, 1998; see page C-4 of the 2004 CO Maintenance Plan). ARB revised the 1996 CO Maintenance Plan to demonstrate California's ability to continue meeting the CO NAAQS without the wintertime oxygenated gasoline program and submitted the amended plan (the "1998 CO Maintenance Plan") to EPA for approval on December 10, 1998. EPA has not taken action on this submittal. The current SIP revision submittal to EPA supersedes the 1998 CO Maintenance Plan SIP revision submittal, but includes a resubmission of ARB Resolution 98-52 and thereby continues the State's commitment in the 1998 submittal to reintroduce the wintertime oxygenated gasoline requirement if violations are monitored. This prior commitment is referenced and reiterated in the ARB resolution adopting the 2004 revisions to the CO maintenance plans: "...in Resolution 98-52, the Board directed that '...if violations are monitored in any of the areas, staff will propose that appropriate action be taken regarding reinstatement of the minimum wintertime oxygen content in gasoline previously contained in section 2262.5, title 13, CCR, in the area at the beginning of the following winter season....'" (ARB Resolution 04-20, July 22, 2004, page 3).

In the 2004 CO Maintenance Plan, ARB brings forward the seven contingency measures included in the 1996 Maintenance Plan, identifies several additional regulatory measures that have already been adopted and implemented as contingency measures (tighter emission standards for cars, truck, buses, off-road equipment), and, as noted above, brings forward the commitment from the 1998 Maintenance Plan SIP revision submittal to reinstate the wintertime oxygenated gasoline requirement. The CO emissions reductions associated with the seven contingency measures adopted as part of the 1996 CO Maintenance Plan and the additional contingency measures described in the 2004 CO Maintenance Plan are accounted for in the inventories that provide the basis for the maintenance demonstrations for the ten planning areas. Although we find early implementation of contingency measures to be acceptable (see EPA policy memorandum "Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas," from G.T. Helms to Air Branch Chiefs, August 13, 1993), we find that the inclusion of the CO emissions reductions benefits from the various contingency measures in the maintenance demonstrations for the ten planning areas disqualifies them from serving as contingency measures for the purposes of CAA section 175A(d).

However, we find that the commitment to reinstate the wintertime oxygenated gasoline requirement, originally made in

Resolution 98-52 and reaffirmed in Resolution 04-20, in the event that CO violations are monitored provides a sufficient basis for us to determine that the 2004 CO Maintenance Plan meets the minimum contingency requirements under section 175A(d) given the extent to which California's motor vehicle control program will continue to provide CO emissions reductions in the ten planning areas over and above those necessary for continued attainment of the CO NAAQS.

#### E. Motor Vehicle Emissions Budgets

Maintenance plan submittals must specify the maximum emissions of transportation-related CO emissions allowed in the last year of the maintenance period. The submittal must also demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with maintenance of the NAAQS. In order for us to find these emissions levels or "budgets" adequate and approvable, the submittal must meet the conformity adequacy provisions of 40 CFR 93.118(e)(4) and (5), and be approvable under all pertinent SIP requirements.

The existing CO motor vehicle emissions budgets (MVEBs) for the areas addressed in this notice derive from California's first maintenance plan (i.e., the 1996 CO Maintenance Plan), which EPA approved March 31, 1998 (63 FR 15305). The CAA requires that the first installment of the maintenance plan cover at least ten years; California's CO maintenance plan covered twelve years:

1998 to 2010. The 1996 CO Maintenance Plan did not specifically identify a particular year in which the MVEBs apply for transportation conformity purposes. Applicable transportation conformity regulations (40 CFR 93.118(b)(2)(i)), however, require that "Emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan . . . ." This compels EPA to interpret California's first CO maintenance plan as establishing MVEBs for the final year of the first maintenance period, which is 2010. This interpretation, however, does not preclude the State from revising the 2010 budgets.

In addition to establishing new MVEBs for the final year of the second maintenance period (2018), the 2004 CO Maintenance Plan also revises the current CO MVEBs. Page 14 of the 2004 CO Maintenance Plan identifies 2003 and 2018 as budget years and states that "These emission budgets will apply to all subsequent analysis years . . . including: any interim year conformity analyses, the 2018 horizon year, and years beyond 2018." EPA requested clarification from ARB because the Agency was unsure whether the State had intended to set budgets for every year after 2003. ARB submitted a letter on December 23, 2004 confirming ARB's intent to remove and entirely replace the emissions budgets established by the first ten year plan with new budgets for 2003 and 2018.

Because the transportation conformity regulations (described above) require States to demonstrate conformity to the last year of the maintenance plan, EPA requested further clarification from ARB concerning the MVEBs in the submitted 2004 CO Maintenance Plan for year 2010. On May 23, 2005, ARB submitted a letter to EPA clarifying their intent to update the MVEBs from the first maintenance plan by setting new, more stringent MVEBs starting in 2003. These MVEBs would also apply for 2010 and 2018. The letter included a table showing the MVEBs and applicable budget years (see Table 4).

**Table 4—Proposed On-Road Motor Vehicle CO Emission Budgets  
(Winter Seasonal Emissions in Tons per Day)**

CO Maintenance Area	Area Included in Inventory	Emission Budget		
		2003	2010	2018
Bakersfield	Western Kern County	180	180	180
Chico	Butte County	80	80	80
Fresno	Fresno County	240	240	240
Lake Tahoe North Shore Lake	Eastern Placer County	11	11	11
Tahoe South Shore	Eastern El Dorado County	19	19	19
Modesto	Stanislaus County	130	130	130
Sacramento	Sacramento County, Yolo County, Western Placer County	420	420	420
San Diego	San Diego County	730	730	730
San Francisco-Oakland-San Jose	San Francisco Bay Area Air Basin	1850	1850	1850
Stockton	San Joaquin County	170	170	170

In setting MVEBs, States generally use motor vehicle emission inventories. California took this approach, for example, in the 1996 CO Maintenance Plan. As Table 5 illustrates, motor vehicle emissions are expected to fall to comparatively low levels by 2018. California need not, however, cap MVEBs at projected motor vehicle emissions levels. Because

overall projected levels of emissions from all sources (as demonstrated in Table 2) are expected to be less than the levels necessary to maintain the CO NAAQS, California has a "safety margin" that the State may use to set MVEBs at a higher level. As long as emissions from all sources are lower than needed to provide for continued maintenance, the State may allocate additional emissions to the MVEBs (see 40 CFR 93.124).

**Table 5—On Road Motor Vehicle CO Emission Inventory  
(Winter Seasonal Emissions in Tons per Day)**

<u>CO Maintenance Area</u>	<u>Area Included in Inventory</u>	<u>1993</u>	<u>2003</u>	<u>2010</u>	<u>2018</u>
Bakersfield	Western Kern County	347	177	112	66
Chico	Butte County	138	75	46	23
Fresno	Fresno County	450	236	141	77
Lake Tahoe North Shore Lake	Eastern Placer County	18	10	7	4
Tahoe South Shore	Eastern El Dorado County	32	18	13	7
Modesto	Stanislaus County	246	126	74	42
Sacramento	Sacramento County, Yolo County, Western Placer County	857	410	244	96
San Diego	San Diego County	1,472	728	457	249
San Francisco-Oakland-San Jose	San Francisco Bay Area Air Basin	3,314	1,840	979	563
Stockton	San Joaquin County	326	162	97	55

Source: ARB, 2004 CO Maintenance Plan, page 13.

In the 2004 CO Maintenance Plan, ARB's proposed MVEBs (Table 4, above) meet the safety margin test. Take, for example, Fresno, which attained the CO NAAQS in 1993 with a CO wintertime emissions level of 627 tons per day. By 2018, ARB predicts that Fresno's emissions will be 244 tons per day of CO (77 from motor vehicles, 167 from all other sources) [see Table 6]. This provides a safety margin of 383 tons per day. By setting the MVEB for Fresno at 240 tons per day, ARB allocates some of the safety margin (163 tons per day) to the MVEB, while still leaving

a large margin between emissions levels from all sources, including motor vehicles and related safety margin (i.e., 220 tons per day), and the emissions level that allows for continued maintenance of the NAAQS (627 tons per day).

**Table 6—Example of How ARB Can Allocate Emissions to MVEBs for Fresno Area**

<b>Fresno Urbanized Area</b>	<b>2018 Emissions</b>
Projected Motor Vehicle Emissions Inventory	77
Projected Emissions from Other Sources	167
Total Projected Emissions	244
Allowable emissions <sup>1</sup>	627
Emissions available to allocate to MVEB	383
Proposed MVEB (See table 4, above)	240
Difference b/w MVEB and Projected MV emissions	163
Remaining Unallocated Safety Margin	220

<sup>1</sup>Based on the revised inventory for year in which Fresno attained the standard (1993).

Our detailed evaluation of the 2004 CO Maintenance Plan and related MVEBs under 40 CFR 93.118(e)(4) and (5) is provided in section IV of this notice. Based on that evaluation and the discussion provided above, we approve the CO MVEBs for each of the ten planning areas as set forth in the 2004 CO Maintenance Plan and clarified by ARB in its letter dated May 23, 2005 because the plan and budgets meet the requirements under 40 CFR 93.118(e)(4) and (5) and because we find that ARB has met all statutory requirements for submittals of maintenance plans under sections 110 and part D of the Act.

In the submittal letter dated November 8, 2004, ARB requested that EPA limit the duration of our approval of the

MVEBs in the 2004 CO Maintenance Plan to last only until the effective date of future EPA adequacy findings for replacement budgets. This would mean that if ARB decided to amend the CO MVEBs sometime in the future, then the new MVEBs would become effective as soon as EPA determined adequacy, rather than after comprehensive rulemaking (which is a longer process). ARB had made a similar request, and EPA granted it, in connection with the MVEBs in the 1996 CO Maintenance Plan (see 67 FR 46618, at 46620, November 15, 2002). That request, however, was accompanied with significant documentation that demonstrated why limiting the duration of our approval provided an advantage to air quality and public health protection. With the current request, however, ARB has not provided any supporting documentation. We note that ARB's request to limit the duration of the approvals of the MVEBs was contained only in the submittal letter and is not, therefore, considered a part of the maintenance plan itself. Therefore, our denial of ARB's request does not affect our approval of the plan or the budgets contained therein.

#### **IV. Adequacy Finding for Motor Vehicle Emissions Budgets**

In this notice, we announce our finding that the motor vehicle emissions budgets (MVEBs) in the submitted *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas* (adopted



by ARB on July 22, 2004) ("2004 CO Maintenance Plan") are adequate for transportation conformity purposes. As a result of this finding, the various metropolitan planning organizations (MPOs) with jurisdictions in the ten planning areas and the U.S. Department of Transportation must use the CO MVEBs from the 2004 CO Maintenance Plan for future conformity determinations. We are also announcing this finding on our conformity Web site: <http://www.epa.gov/otaq/trasp/conform/adequate.htm> (once there, click on the "What SIP submissions has EPA already found adequate or inadequate?" button).

Transportation conformity is required by section 176(c) of the CAA. Our transportation conformity rule (codified in 40 CFR part 93, subpart A) requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to the SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

On March 2, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund v. Environmental Protection Agency*, No. 97-1637, that we must make an affirmative determination that the submitted MVEBs contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long

Range Transportation Plans. In response to the court decision, we are making any submitted SIP revision containing a control strategy or maintenance plan available for public comment and responding to those comments before announcing our adequacy determination. The conformity rule was recently changed to reflect the procedures we have been using since the court decision. See 69 FR 40004 (July 1, 2004) and related correction notice at 69 FR 43325 (July 20, 2004).

ARB submitted the 2004 CO Maintenance Plan to EPA by letter dated November 8, 2004, and we received this plan on November 12, 2004. The plan identifies CO MVEBs (calculated as winter seasonal emissions in tons per day) for each of the ten planning areas for years 2003 and 2018.

We announced receipt of the plan on the Internet and requested public comment by December 27, 2004. We requested clarification from ARB because we were unsure whether ARB had intended to set budgets for every year after 2003. ARB submitted a letter on December 23, 2004 explaining ARB's intent to replace the 1996 CO Maintenance Plan budgets with new budgets for 2003 and 2018. Subsequently, we extended the comment period until February 10, 2004, although we had not received any comments in response to our Internet posting on December 27, 2004. We did not receive any comments during the extended comment period either.

Because the transportation conformity regulations require States to demonstrate conformity to the last year of the maintenance plan, EPA requested further clarification from ARB on the status of the MVEBs for 2010 (the last year of the EPA-approved 1996 CO Maintenance Plan). On May 23, 2005, ARB submitted a letter to EPA indicating that their intent was to update the MVEBs from the 1996 CO Maintenance Plan by setting new, more stringent MVEBs starting in 2003. These new MVEBs would apply to 2003, 2010 and 2018. Table 4, above, shows the 2004 CO Maintenance Plan MVEBs for 2003, 2010 (the last year of the 1996 CO Maintenance Plan), and 2018 (the last year of the 2004 CO Maintenance Plan).

The criteria by which we determine whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4) and (5). The following paragraphs provide our review of ARB's 2004 CO Maintenance Plan SIP submittal against our adequacy criteria and, based on that review, we conclude that all of the criteria have been met and that the MVEBs in the submitted 2004 CO Maintenance Plan are adequate for transportation conformity purposes.

Under 40 CFR 93.118(e)(4)(i), we review a submitted plan to determine whether the plan was endorsed by the Governor (or designee) and was subject to a public hearing. The transmittal letter for the submitted 2004 CO Maintenance Plan was signed by

Catherine Witherspoon, Executive Officer, ARB, the Governor's designee for CAA SIP purposes. ARB Resolution 04-20, included as enclosure 2 of the SIP submittal, provides evidence of adoption and legal authority. Enclosure 3 of the SIP submittal contains documentation of a public hearing on the 2004 CO Maintenance Plan that was held on July 22, 2004. As such, the submitted plan meets the criterion under 40 CFR 93.118(e)(4)(i).

Under 40 CFR 93.118(e)(4)(ii), we review a submitted plan to determine whether the plan was developed through consultation with Federal, state and local agencies and whether full implementation plan documentation was provided to EPA and EPA's stated concerns, if any, were addressed. Consultation for development of this plan largely consisted of public hearing notices that were published in newspapers of general circulation in each of the ten planning areas. Given the nature of this subsequent maintenance plan submittal, which includes no new control measures but simply shifts one control measure (the wintertime oxygenated gasoline requirement) from active to contingent status, and updates a previous plan to reflect better emission estimates (based on improved calculation methods and updated source type and activity data) and to extend the maintenance demonstrations further into the future, such limited consultation is sufficient for the purposes of 40 CFR 93.118(e)(4)(ii).

Under 40 CFR 93.118(e)(4)(iii), we review a submitted plan to determine whether the MVEBs are clearly identified and precisely quantified. The 2004 CO Maintenance Plan clearly identifies and precisely quantifies the CO MVEBs for each of the ten planning area on pages 13 through 17 of the plan, thereby meeting the adequacy criterion under 40 CFR 93.118(e)(4)(iii).

Under 40 CFR 93.118(e)(4)(iv), we review a submitted plan to determine whether the MVEBs, when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to a given SIP submission). The 2004 CO Maintenance Plan shows how the CO MVEBs and related safety margins are consistent with continued maintenance of the CO NAAQS in each of the ten planning areas through 2018 (see pages 13 through 17 of the plan). In particular, table 12 on page 17 of the maintenance plan shows the extent to which maximum potential 2018 emissions (i.e., including the budget safety margins) fall below emissions calculated for the 1993 attainment year. Thus, the submitted plan meets this criterion for adequacy.

Under 40 CFR 93.118(e)(4)(v), we review a submitted plan to determine whether the MVEBs are consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy plan or maintenance plan. The

2004 CO Maintenance Plan contains no new measures but the budgets appropriately reflect the State's adopted emissions standards, fuel regulations (including repeal of the wintertime oxygenated gasoline requirements), and the vehicle inspection and maintenance program, as applicable in each of the ten planning areas. Thus, the submitted plan meets this criterion for adequacy.

Under 40 CFR 93.118(e)(4)(vi), we review a submitted plan to determine whether revisions to previously submitted plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins; and reasons for the changes (including the basis for any changes related to emissions factors or estimates of vehicle miles traveled). The 2004 CO Maintenance Plan explains and documents the various changes that have been made to the CO emissions inventories, motor vehicle emissions budgets, safety margins, and control measures, including updates to the emissions factor model (EMFAC2002 for the 2004 CO Maintenance Plan versus EMFAC7F for the 1996 CO Maintenance Plan), updates to the travel activity data from the local transportation agencies, and the shift of the wintertime oxygenated gasoline requirements from active to contingent status. Thus, the submitted plan meets this criterion for adequacy.

Under 40 CFR 93.118(e)(5), we review the State's compilation of public comments and response to comments that are required to be submitted with any SIP revision. Enclosure 4 of the SIP submittal contains one comment letter that was received on the proposed 2004 CO Maintenance Plan. This comment letter supported ARB approval of the proposed plan. Enclosure 6 of the SIP submittal contains minutes from the July 22, 2004 public hearing. No further comments on the plan were submitted on the proposed plan at the public hearing. Thus, the submitted plan meets this criterion for adequacy.

Therefore, we find the CO MVEBs contained in the submitted 2004 CO Maintenance Plan to be adequate for transportation conformity purposes. Under 40 CFR 93.118(e)(1), motor vehicle emissions budgets in submitted plans do not supersede the motor vehicle emissions budgets in approved plans for the same CAA requirement and the period of years addressed by the previously approved implementation plan, unless EPA specifies otherwise in its approval of a SIP. See 69 FR 40004, at 40078 (July 1, 2004). In this instance, the submitted plan (the 2004 CO Maintenance Plan) is a maintenance plan that establishes MVEBs that are intended to supersede previously approved budgets from an earlier maintenance plan (the 1996 CO Maintenance Plan) for year 2010, the out year of the 1996 plan. However, in a final rule published on November 15, 2002, we limited the duration of our

approvals of the MVEBs in the 1996 CO Maintenance Plan to last only until the effective date of our adequacy finding for new budgets that replace the existing approved budgets for the same pollutant, CAA requirement, and year. See 67 FR 69139 (November 15, 2002). Thus, upon the effective date of this adequacy finding, the MVEBs in the 2004 CO Maintenance Plan will supersede the previously-approved CO MVEBs from the 1996 CO Maintenance Plan.

The effective date for our adequacy finding will coincide with the effective date for our approval of the budgets as part of our overall approval of the 2004 CO Maintenance Plan as a SIP revision if we do not withdraw this direct final rule in response to receipt of adverse comments. If we receive adverse comments on this direct final action, we will withdraw the final rule as it relates to the approval of the 2004 CO Maintenance Plan (and budgets), but the adequacy determination will remain in effect until we either make a subsequent inadequacy determination or take subsequent final action to approve or disapprove the plan.

## **V. Technical Correction**

In 1996, ARB submitted the 1996 CO Maintenance Plan covering the ten planning areas and requested they be redesignated to attainment for the CO NAAQS. On March 31, 1998, EPA approved the 1996 Plan as a revision to the California SIP and redesignated the ten planning areas to attainment effective June 1, 1998 (63



FR 15305). To codify this rulemaking, we amended the table in 40 CFR part 81, section 305 (40 CFR 81.305), that lists the designations for air quality planning areas in California, but in doing so, we incorrectly identified April 30, 1998 as the effective date for redesignation of the ten planning areas to attainment for CO. The correct date is June 1, 1998. In addition, in our March 31, 1998 final rule, we inadvertently deleted from the California-Carbon Monoxide table the detailed descriptions of three of the ten planning areas: the Lake Tahoe North Shore Area, the Lake Tahoe South Shore Area, and the San Diego Area.

Section 110(k)(6) of the Clean Air Act provides, "Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public." Under the authority vested in EPA under section 110(k)(6) of the Act, we are taking direct final action to amend the California-Carbon Monoxide table in 40 CFR 81.305 by changing the effective date for redesignation from April 30, 1998

to June 1, 1998 for each of the ten areas addressed in this notice and by re-codifying the previous detailed descriptions of the Lake Tahoe North Shore, Lake Tahoe South Shore, and San Diego Areas.

## **VI. EPA's Final Action**

Under section 110(k)(3) of the CAA, EPA is approving as a revision to the California SIP the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas* ("2004 CO Maintenance Plan"), as adopted by ARB on July 22, 2004 and submitted by ARB to EPA on November 8, 2004.

In so doing, EPA has determined that this submittal meets the CAA requirement under section 175A(b) to prepare and submit a SIP revision that provides for continued maintenance of the CO NAAQS for a period of 10 years following the initial 10-year maintenance period that began with redesignation of the following ten planning areas from nonattainment to attainment: Bakersfield, Chico, Fresno, Lake Tahoe North Shore, Lake Tahoe South Shore, Modesto, Sacramento, San Diego, San Francisco-Oakland-San Jose, and Stockton.

As part of our overall approval of the 2004 CO Maintenance Plan, we approve the following specific plan elements:

- Emission inventory updates and projections, as well as the maintenance demonstrations through 2018, for the ten

planning areas covered by the plan;

- Commitment to continue monitoring for the purpose of verifying continued attainment;
- Contingency provisions under CAA section 175A(d), specifically, the State's commitment related to the wintertime oxygenated gasoline requirements contained in ARB Resolution 98-52 and included as Appendix C of the 2004 CO Maintenance Plan; and
- CO motor vehicle emissions budgets (in terms of winter seasonal emissions in tons per day) for the years 2003, 2010, and 2018, for each of the ten planning areas as follows:

	<u>2003</u>	<u>2010</u>	<u>2018</u>
Bakersfield	180	180	180
Chico	80	80	80
Fresno	240	240	240
Lake Tahoe North Shore	11	11	11
Lake Tahoe South Shore	19	19	19
Modesto	130	130	130
Sacramento	420	420	420
San Diego	730	730	730
San Francisco-Oakland-San Jose	1,850	1,850	1,850
Stockton	170	170	170

In connection with the motor vehicle emissions budgets, we are denying ARB's request to limit our approval of the above budgets to last only until the effective date of future EPA adequacy findings for replacement budgets, but our denial of ARB's request does not affect our approval of the plan itself or

the budgets contained therein.

Also, in connection with the motor vehicle emissions budgets, we are finding them adequate for the purposes of transportation conformity. As a result of this finding, the various metropolitan planning organizations in the ten planning areas and the U.S. Department of Transportation must use the CO motor vehicle emissions budgets from the submitted maintenance plan for future conformity determinations.

Lastly, under CAA section 110(k)(6), we are correcting our 1998 final rule in which we approved ARB's submittal of the 1996 CO Maintenance Plan and redesignated the ten planning areas to attainment for the CO NAAQS by fixing the erroneous effective date listed in the table entitled "California - Carbon Monoxide" in 40 CFR part 81.305 and by re-codifying in that same table detailed descriptions of the Lake Tahoe North Shore, Lake Tahoe South Shore, and San Diego areas that had inadvertently been deleted in that same 1998 rulemaking.

We do not anticipate any objections to this action, so we are finalizing the correction action without proposing it in advance. However, in the Proposed Rules section of this Federal Register, we are simultaneously proposing this same action. If we receive adverse comments by [insert date 30 days from the date of publication in the Federal Register], we will publish a timely withdrawal in the Federal Register to notify the public that the

direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. Such a withdrawal of this direct final rule will not, however, affect the adequacy finding related to the motor vehicle emissions budgets. The adequacy finding will become effective [insert date 60 days from the date of publication in the Federal Register] and remain in effect unless and until EPA makes an inadequacy finding, or takes final action to approve or disapprove the plan. If we do not receive timely adverse comments, the direct final action will be effective without further notice on [insert date 60 days from the date of publication in the Federal Register] and our approval of the motor vehicle emissions budgets will be effective on the same date as our adequacy finding related to those budgets.

## **VII. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the

Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the

Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this rule present a disproportionate risk to children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule

report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

#### **List of Subjects in 40 CFR Parts 52 and 81**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental



relations, National parks, Reporting and recordkeeping requirements, Wilderness areas.

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
~~Wayne Nastri~~  
Signed By Jane Diamond,  
Acting Regional Administrator,  
Region IX

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart F - California**

2. Section 52.220 is amended by adding paragraphs (c)(341) to read as follows:

**§52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(341) The 2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Carbon Monoxide Maintenance Plan for the Ten Federal Planning Areas, submitted on November 8, 2004 by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(1) 2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas, adopted by the California Air Resources Board on July 22, 2004. The ten Federal planning areas include Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton

Urbanized Area.

**PART 81--[AMENDED]**

1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart C - [AMENDED]**

2. In § 81.305, the table entitled "California--Carbon Monoxide" is amended by revising the entry for Bakersfield Area, Chico Area, Fresno Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Area, Sacramento Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Area to read as follows:

**§81.305 California.**

\* \* \* \* \*

California - Carbon Monoxide

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date	Type
Bakersfield Area: Kern County (part)..... Bakersfield Metropolitan Area (Urbanized part).	June 1, 1998	Attainment		
Chico Area: Butte County (part)..... Chico Urbanized Area (Census Bureau Urbanized part).	June 1, 1998	Attainment		
Fresno Area: Fresno County (part)..... Fresno Urbanized Area.	June 1, 1998	Attainment		
Lake Tahoe North Shore Area: Placer County (part)..... That portion of Placer County within the drainage area naturally tributary	June 1, 1998	Attainment		

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date	Type
to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and Meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.				
Lake Tahoe South Shore Area: El Dorado County (part)..... That portion of El Dorado County within the drainage area naturally tributary to Lake Tahoe including said Lake, as described under 40 CFR 81.275.	June 1, 1998	Attainment		
* * *	*	*	*	*
Modesto Area: Stanislaus County (part).....  Modesto Urbanized Area (Census Bureau Urbanized Area).	June 1, 1998	Attainment		

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date	Type
Sacramento Area: Census Bureau Urbanized Areas  Placer County (part). Sacramento County (part). Yolo County (part).	June 1, 1998	Attainment		
San Diego Area: San Diego County (part)..... The Western Section of Air Pollution Control District of San Diego County is defined as all that portion of San Diego County, State of California, lying westerly of the following described line: 1. Beginning at the Northwest of Township 9 South, Range 1 West, San Bernardino Base and Meridian; 2. thence running Southerly along the West line of said township to the south line thereof; 3. thence Easterly along said South line to the range line between Range 1 West and Range 1 East; 4. thence Southerly along said range line to the township line between Township 11 South and 12 South; 5. thence Easterly along said township line to the range line between Range 1 East and Range 2 East; 6. thence Southerly along said range line to the international boundary between the United States of America and Mexico.	June 1, 1998	Attainment		
San Francisco-Oakland-San Jose Area:  Urbanized Areas.....				

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date	Type
Alameda County (part). Contra Costa County (part). Marin County (part). Napa County (part). San Francisco County. San Mateo County (part). Santa Clara County (part). Solano County (part). Sonoma County (part).  Stockton Area: San Joaquin County (part)....  Stockton Urbanized Area.  *                    *                    *				
	June 1, 1998	Attainment		

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date	Type
	June 1, 1998	Attainment		
	*	*	*	*

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

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